

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MARYLAND

3 CHARLENE JANSON

4 Plaintiff

5 vs.

Case No. 1:19-CV-00079-DKC

6 REITHOFFER SHOWS, INC.

7 Defendant

8 _____/

9
10 The deposition of CHARLENE JANSON was held
11 on Tuesday, July 16, 2019, commencing at 9:00 a.m., at
12 the Law Offices of Potter Burnett Law, 16701 Melford
13 Boulevard, Suite 421, Bowie, Maryland 21208, before
14 Steven Poulakos, Notary Public.
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21

REPORTED BY: Steven Poulakos, RPR



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<p>1 A Yes, sir.</p> <p>2 Q What does he do?</p> <p>3 A He's a self-employed -- he builds custom</p> <p>4 homes and he does historical restorations in Annapolis.</p> <p>5 Q Was that the gentleman seated with you in</p> <p>6 the waiting room?</p> <p>7 A Yes.</p> <p>8 Q How many kids do you have?</p> <p>9 A One.</p> <p>10 Q Her name and age, please?</p> <p>11 A Aubry Jo Jean Janson.</p> <p>12 Q You like four names in your family.</p> <p>13 A Her name is Aubry Jo and her confirmation</p> <p>14 name is Jean. Jo after my mother. My mother is Mary</p> <p>15 Jo. And my cousin's name is Betty Jo.</p> <p>16 Q How old is your daughter?</p> <p>17 A My daughter is 26.</p> <p>18 Q She has children of her own, I assume?</p> <p>19 A No, sir, she does not.</p> <p>20 Q You were with a niece, I think, at the time</p> <p>21 of the accident in this case?</p>	<p>1 Q What's the date?</p> <p>2 A September 17, 2016.</p> <p>3 Q And this was at the great Frederick fair;</p> <p>4 is that correct?</p> <p>5 A Yes, sir.</p> <p>6 Q Had you attended that fair in years past?</p> <p>7 A No, sir.</p> <p>8 Q This was your first time there?</p> <p>9 A Yes, sir.</p> <p>10 Q Have you been back since?</p> <p>11 A One time, yes, sir.</p> <p>12 Q Was that to take pictures or to enjoy the</p> <p>13 rides or for what purpose?</p> <p>14 A It was just to go back to the fair and see</p> <p>15 if I could have some fun.</p> <p>16 Q Was it in the same year, the 2016 --</p> <p>17 A No, sir.</p> <p>18 Q When was that?</p> <p>19 A I believe it was the following year.</p> <p>20 Q And I think you produced some pictures from</p> <p>21 that fair; is that correct?</p>
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<p>1 A Yes, sir.</p> <p>2 Q What was that individual's name and how is</p> <p>3 he or she related to you?</p> <p>4 A Sherry Christina Eller, and she's my niece</p> <p>5 from my sister.</p> <p>6 Q And how old is she roughly?</p> <p>7 A Late 30s.</p> <p>8 Q Does she have children?</p> <p>9 A Yes, two.</p> <p>10 Q What are their names?</p> <p>11 A Jessica and Joseph Eller.</p> <p>12 Q Were one of those children the one you were</p> <p>13 with on the ride?</p> <p>14 A Yes, sir.</p> <p>15 Q Which one?</p> <p>16 A Joseph.</p> <p>17 Q How old was Joseph at the time of the</p> <p>18 accident?</p> <p>19 A I believe seven years old.</p> <p>20 Q Do you remember the date of the accident?</p> <p>21 A Yes, sir, I do.</p>	<p>1 A Yes, sir.</p> <p>2 Q Were you intending to show just the fair in</p> <p>3 general or something in particular in those pictures?</p> <p>4 A No, sir. The pictures were taken because I</p> <p>5 didn't realize how severe this injury was and how it</p> <p>6 was a big life changing -- big life change event to me</p> <p>7 because I'm not the same.</p> <p>8 Q How does that relate to going back to the</p> <p>9 fair a year later?</p> <p>10 A It's just to have the pictures. It doesn't</p> <p>11 relate going back to the fair the pictures at all. It</p> <p>12 was just to go back and try and enjoy myself.</p> <p>13 Q I see. Had you been to any fairs or</p> <p>14 amusement parks?</p> <p>15 A The first time I've ever been --</p> <p>16 Q Hang on a second. Any fairs, amusement</p> <p>17 parks, carnivals or the like between the accident and</p> <p>18 your return to the fair in 2017?</p> <p>19 A No, sir.</p> <p>20 Q Did they have a fair there in 2018 as well?</p> <p>21 A They have one every year.</p>

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<p>1 Q How many times have you attended?</p> <p>2 A Once -- well, twice.</p> <p>3 Q Okay. Sixteen and '17 but not '18</p> <p>4 apparently?</p> <p>5 A Yes. It was '16, '17, yes, sir.</p> <p>6 Q You did not attend in '18?</p> <p>7 A No, sir.</p> <p>8 Q Are you planning on attending in '19</p> <p>9 assuming it's going forward?</p> <p>10 A If my sister invites us and we go with the</p> <p>11 kids.</p> <p>12 Q Do they live closer to --</p> <p>13 A My sister lives in Frederick.</p> <p>14 Q Tell me how you came to go to the fair on</p> <p>15 the day of the accident. What was the lead up to it?</p> <p>16 A call from your sister out of the blue saying, hey, do</p> <p>17 you want to go to the fair?</p> <p>18 A This was a planned event. I don't get to</p> <p>19 see my niece's children much because they live a far</p> <p>20 distance and this was --</p> <p>21 Q You mean in Frederick or they live</p>	<p>1 know them. You know, I think I met them maybe one</p> <p>2 time, twice.</p> <p>3 Q Was this planned as an all day or all</p> <p>4 afternoon and evening event?</p> <p>5 A It was like late afternoon, evening event.</p> <p>6 Q What time did the accident occur, do you</p> <p>7 remember?</p> <p>8 A I'm going to estimate between 4:00 and</p> <p>9 5:00 because I believe that we were at the fair for at</p> <p>10 least an hour, one hour.</p> <p>11 Q What had you done during that hour?</p> <p>12 A We entered, paid to get in, walked through</p> <p>13 the area where there's vendors. They have vendors</p> <p>14 before some rides, but the vendors were there and we</p> <p>15 walked through them and my niece bought a sweater for</p> <p>16 her daughter and the kids were just looking at the</p> <p>17 carnival toys that were in there.</p> <p>18 Q What kind of vendors did they have?</p> <p>19 A There was popcorn vendors or french fry</p> <p>20 vendors, vendors like I said that carried toys, that</p> <p>21 were selling toys, carnival toys. There was another</p>
Page 19	Page 21
<p>1 somewhere other than --</p> <p>2 A She lives in Hampstead. My niece lives in</p> <p>3 Hampstead. My sister lives in Frederick. So from</p> <p>4 Hampstead to Frederick is an hour ride, hour,</p> <p>5 hour-and-a-half ride. And for me from Baltimore to</p> <p>6 Frederick to see my sister is a good hour,</p> <p>7 hour-and-a-half ride. So we don't get up there much</p> <p>8 due to the fact that we -- my husband and myself, we</p> <p>9 work five days a week and cutting the grass, cleaning</p> <p>10 the house is a priority. Chores have to be done before</p> <p>11 you go to enjoy yourself.</p> <p>12 Q Is your sister Carol Mark?</p> <p>13 A Carolyn.</p> <p>14 Q Was she at the fair as well?</p> <p>15 A Yes.</p> <p>16 Q What other family members were at the fair</p> <p>17 in September of 2016?</p> <p>18 A It was myself, my husband, my niece,</p> <p>19 Sherry, her two children, Jess and Joe, and my sister,</p> <p>20 Carolyn, and her husband, Roy. And there were two of</p> <p>21 my sister's friends. I didn't know them. I didn't</p>	<p>1 vendor. We didn't go -- there really wasn't a whole</p> <p>2 lot there. It was like maybe one or two. One was</p> <p>3 carnival toys mainly and the other was where sweater --</p> <p>4 a vendor -- like a craft show has vendors that sell</p> <p>5 sweaters, blankets, shoes of like native --</p> <p>6 Q Excuse me for interrupting. This is</p> <p>7 merchandise and food rather than carnival games I take</p> <p>8 it?</p> <p>9 A Yes. Not carnival games, no, sir. That</p> <p>10 wasn't in that area, no.</p> <p>11 Q Had you ridden on any rides at the fair</p> <p>12 prior to your accident?</p> <p>13 A Yes, one.</p> <p>14 Q What ride was that?</p> <p>15 A That was the train with Jessica.</p> <p>16 Q Is this a kiddy ride?</p> <p>17 A Yes.</p> <p>18 Q Were there any size or height or weight</p> <p>19 limits on that ride?</p> <p>20 A No, sir, not that I'm aware of.</p> <p>21 Q Did you have to pay to get into the fair</p>

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1 grounds?

2 **A Yes, sir.**

3 **Q And then you had to buy tickets for the**

4 **individual rides, I assume?**

5 **A Yes, sir.**

6 **Q If I understand you correctly, the accident**

7 **occurred on the second ride you attended?**

8 **A Yes, sir.**

9 **Q How would you -- describe that ride for me,**

10 **please, the one that was involved in the accident.**

11 **What is it or was it?**

12 **A It was a ride that had different boats.**

13 **Maybe there were cars on it. I didn't really focus on**

14 **what I was getting on because that was what Joe wanted.**

15 **He wanted to get -- he had a specific ride -- boat that**

16 **he wanted to get into and --**

17 **Q You mean I want the red boat and not the**

18 **blue boat, that kind of thing?**

19 **A Yes, sir.**

20 **Q Any particular reason that you know of for**

21 **that choice?**

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1 **A No, I don't. I guess because he likes**

2 **fishing. He likes crabbing, goes out with his dad a**

3 **lot.**

4 **Q Had he ridden with you on the previous**

5 **ride?**

6 **A No.**

7 **Q What was that ride again?**

8 **A It was a train.**

9 **Q A train that goes --**

10 **A In a circle.**

11 **Q A short track?**

12 **A Yes.**

13 **Q Did your -- did Jessica also ride that ride**

14 **with you, the first ride, the train?**

15 **A Yes. First ride that I got on was with**

16 **Jessica.**

17 **Q Not with Joseph?**

18 **A No, sir.**

19 **Q Did anyone other than Jessica ride the**

20 **first ride with you?**

21 **A No, sir.**

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1 **Q I'm assuming these rides are not very far**

2 **apart? You can walk from one to the other in a minute**

3 **or two?**

4 **A Yes, sir.**

5 **Q Do you buy tickets at each ride or are**

6 **there central ticket booths?**

7 **A There were central ticket booths. I know I**

8 **was given a ticket because I didn't purchase tickets.**

9 **I wasn't there to get on the rides. I was there to**

10 **watch the children get on the rides.**

11 **Q How did you come to ride the train?**

12 **A Joe -- I mean, Jessica asked me, auntie,**

13 **will you get on with me.**

14 **Q You weren't intending to, but when asked,**

15 **you said sure?**

16 **A Absolutely.**

17 **Q So the second ride, let's call it the**

18 **second ride, is that also a kiddy ride?**

19 **A Yes, sir.**

20 **Q It sounds like from what you've described**

21 **it's a series of cars on a platform that basically go**

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1 **around in circles?**

2 **A Yes, sir.**

3 **Q You had to give -- how many tickets do you**

4 **recall to get on that ride?**

5 **A I don't recall. Sorry.**

6 **Q Was there a fence or some barrier around**

7 **the ride between the people going back and forth and**

8 **the ride?**

9 **A There was a barrier between the ride and**

10 **the people.**

11 **Q How did you get into the ride?**

12 **A I walked up a ramp where the attendant was.**

13 **Q Was the attendant on a part of the ride or**

14 **was he --**

15 **A No, sir. He was at the top of the ramp**

16 **sitting on a stool.**

17 **Q And you're confident it was a ramp that you**

18 **walked up?**

19 **A Yes, sir, a small ramp.**

20 **Q Had you observed the ride being operated**

21 **before you got on?**

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1 **A No, sir.**

2 **Q** So you didn't see any of the prior trips or

3 revolutions? You just knew it was a kiddy ride, but

4 you didn't know anything specific about how it worked?

5 **A That's correct.**

6 **Q** You and Joseph went up the ramp?

7 **A Yes, sir.**

8 **Q** Can you describe the attendant for me?

9 **A I believe he was a dark skinned male.**

10 **Q** African-American?

11 **A I believe so, yes, sir.**

12 **Q** A young man presumably?

13 **A Yes.**

14 **Q** If you don't know, that's fine.

15 **A I don't know and I don't know what your**

16 **description of young is.**

17 **Q** Anybody younger than me.

18 **A Yes, sir. He was a young man.**

19 **Q** Of course I asked for that one, didn't I?

20 Did you have any conversation with him?

21 **A Yes, sir.**

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1 **Q** What was that?

2 **A I asked him if I could get on the ride with**

3 **Joseph.**

4 **Q** Why did you ask that?

5 **A Because some kiddy rides adults can get on**

6 **and other kiddy rides adults cannot.**

7 **Q** Did you ask the same question on the train

8 ride?

9 **A No, sir, I did not.**

10 **Q** Why not?

11 **A Because there were adults prior to me.**

12 **Q** Did you observe any adults on the second

13 ride?

14 **A Not in front of me, no, sir.**

15 **Q** Did you observe any children in front of

16 you who were on the ride, on the second ride?

17 **A Yes, sir.**

18 **Q** Did you see any signage that provided any

19 information about the ride --

20 **A No.**

21 **Q** -- or any restrictions?

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1 **MS. BURNETT:** Let him finish getting his

2 questions out just for the court reporter.

3 **THE WITNESS:** I'm sorry.

4 **BY MR. KARP:**

5 **Q** Just to be clear, you didn't observe any

6 signage relating to the second ride concerning

7 anything; is that correct?

8 **A That's correct.**

9 **Q** If you hadn't -- was your conversation with

10 the operator anything more than what you've just

11 described, hey, can I ride the ride and he said what?

12 **A Sure.**

13 **Q** Was there any discussion about you being

14 too tall or too petite or anything like that to get on

15 the ride?

16 **A No, sir.**

17 **Q** What is your height and weight, please?

18 **A I'm five foot three, 150 pounds. That's a**

19 **guesstimation.**

20 **Q** Is that a fair estimate of height and

21 weight in September 2016 as well?

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1 **A Probably a couple of pounds lighter.**

2 **Q** Then or now?

3 **A Then.**

4 **Q** I'm not trying to embarrass you.

5 **A My dad always told me don't tell a man your**

6 **age or your weight.**

7 **Q** That's old fashion.

8 Were there others on the ride before you

9 got on?

10 **A There were children approaching to get on**

11 **the ride, yes, sir.**

12 **Q** Ahead of you on the ramp?

13 **A Ahead of me, yes, sir. My focus was**

14 **Joseph.**

15 **Q** Sure. Did he precede you up the ramp and

16 on to the ride platform?

17 **A Yes, sir.**

18 **Q** And what happened as you gave your tickets

19 to the operator and went on to the ride?

20 **A You could either go to the left of the**

21 **ramp -- I mean, to the right of the ramp or to the left**

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1 of the ramp to choose your ride. He chose to go to the
 2 left. I proceeded to follow him. He got into the
 3 front of the boat. I made sure that he got in, put his
 4 seat belt on, and then I proceeded.
 5 Q Did this boat appear to be -- have a
 6 capacity of two people or were there more seats in it?
 7 A Maybe -- I'm not certain. It could have
 8 been two. It could have been three. I believe it was
 9 three.
 10 Q The seat you chose or the seat that he
 11 chose and the seat that you intended to choose, were
 12 they next to each other?
 13 A Behind one another.
 14 Q Were these bucket type seats, bench type
 15 seats, or something else?
 16 A Bench type seat, I do believe.
 17 Q So you believe or I understand you're not
 18 certain, he took the front bench? You intended to take
 19 the middle bench and there may have been a third bench
 20 behind you?
 21 A Yes, sir.

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1 Q And each of these benches as far as you can
 2 tell had a seat belt?
 3 A Yes, sir.
 4 Q Like a car type seat belt, a lap type seat
 5 belt?
 6 A Yes.
 7 Q What color was this boat? Did you tell me?
 8 I forgot.
 9 A I don't believe that I said what color it
 10 was. I don't recollect the color. Maybe white. I'm
 11 not certain.
 12 Q When he boarded, did he board from the
 13 outside and by that, I mean nearest the edge of the
 14 platform side of the ride or did he board from the side
 15 of the ride that's nearest the center of the platform
 16 where the mechanism turns?
 17 A No. From the platform.
 18 Q The platform side?
 19 A Yes, sir. That was the only way to get on.
 20 Q That appeared to be the only way to get on?
 21 A Yes, sir.

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1 Q How wide was the platform between the boat
 2 and the edge of the platform where he got on?
 3 A It's 6 to 12 inches. It was very small.
 4 Q Were there any -- is there any paint on any
 5 part of the ride indicating a caution like yellow
 6 paint, something of the sort?
 7 A No, sir.
 8 Q Were there any steps or ramps or any other
 9 way into the ride other than just stepping from the
 10 platform over the edge of the boat and into the ride?
 11 A No, sir.
 12 Q There was no door or gate on the ride
 13 itself?
 14 A No, sir.
 15 Q I imagine it took you a couple of seconds
 16 to seat and belt Joseph; is that fair?
 17 A Yes, sir.
 18 Q What did you do then?
 19 A I proceeded to board the backseat, put my
 20 left foot in.
 21 Q Before you boarded, were you standing on

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1 the same what you estimate 6 to 12-inch width of
 2 platform --
 3 A Yes, sir.
 4 Q -- that Joseph had stood on?
 5 A Yes, sir.
 6 Q You put your left foot in. Then what
 7 happened?
 8 A I put my left in and I proceeded to board
 9 and fell.
 10 Q What caused you to fall?
 11 A I'm certain that the platform was not big
 12 enough for an adult.
 13 Q Did your foot slip on something, your right
 14 foot slip on something?
 15 A My foot did not slip. I put my left foot
 16 into the boat and attempted to board the boat and I
 17 fell. And when I fell, my foot got stuck in the boat
 18 and I was hanging for a couple of seconds.
 19 Q Did you fall forwards, backwards?
 20 A I fell backwards.
 21 Q And do you have any idea what caused you to

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1 fall other than what you've already told me?

2 **A No, sir.**

3 **Q** It doesn't sound like there was anything
4 slippery or loose that impeded your foot, your right
5 foot being on the platform other than perhaps the width
6 of the platform?

7 **A Yes, sir.**

8 **Q** Did your left foot become caught on
9 something in the boat?

10 **A Something in the boat. I don't know what**
11 **it was because I proceeded to fall backwards. And when**
12 **I fell backwards is when my foot held me and then it**
13 **released me. And when it released me, my left breast**
14 **and ribs hit the platform and my right shoulder hit the**
15 **barrier and I fell flat to the ground on my back.**

16 **Q** The barrier you're referring to is the
17 barrier we previously discussed that separates the
18 platform from the public?

19 **A Yes, sir.**

20 **Q** So let me just repeat this to make sure I
21 understand it. You're standing on the edge of the

1 **A Yes, sir.**

2 **Q** -- you don't know?

3 **A It all happened so quickly.**

4 **Q** Sure.

5 **A I just know that I got hung up and that I**
6 **was released. And I had bruises to the left of my**
7 **breast, to my rib, and I know that I hit something**
8 **on -- with my right shoulder.**

9 **Q** You believe that was likely the barrier as
10 you rolled off the platform?

11 **A Yes, sir. I didn't roll off the platform.**

12 **Q** How close to the edge of the platform was
13 the barrier?

14 **A Ask me that again.**

15 **Q** How close to the edge of the platform was
16 the barrier?

17 **A Enough space for my body to go in between**
18 **the barrier and the platform.**

19 **Q** Were you still on the platform when your
20 right shoulder hit the barrier?

21 **A No, sir.**

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1 platform. You put your left foot into the boat.
2 Something, you're not sure what, caused you to fall
3 backwards. Your left foot remained caught in the boat
4 as you fell backwards. You remained caught for some
5 period of time. Somehow your foot became released.
6 You can fill in any of this when I'm done if I got it
7 wrong. Left foot became released. You then fell on to
8 the platform hitting your left breast and shoulder did
9 you say on the platform and then you rolled off the
10 platform -- no. First time you've shaken rather nodded
11 your head. Tell me where I went wrong.

12 **A My body did not fall on to the platform.**
13 **It hit the side of the platform --**

14 **Q** So while you were --

15 **A -- when I fell.**

16 **Q** While your foot was still caught in the
17 boat, you fell -- the left side of your body fell on to
18 the platform?

19 **A When I was released.**

20 **Q** And you say when you were released. When
21 your foot became released in some fashion that --

1 **Q** Where were you?

2 **A I was falling.**

3 **Q** So you believe you injured or hit your
4 right shoulder as you were falling from the platform
5 toward the ground, but the barrier partially impeded
6 you and you hit the barrier?

7 **A Yes, sir.**

8 **Q** Can you tell me how high the platform was
9 off the ground?

10 **A Three feet.**

11 **Q** Is that an estimate or did you measure it?

12 **A I'm guesstimating three feet.**

13 **Q** You said this happened very quickly. Are
14 you able to give me any estimate of how long you
15 believe your foot remained caught?

16 **A It was seconds. I could -- when I was hung**
17 **up, when my foot was caught up in the ride and when I**
18 **was falling back, I could see the people trying to**
19 **reach to help me at the barrier on the other side. So**
20 **it had to be two, three seconds because it was**
21 **instantly that quick.**

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1 Q The people who appeared to be reaching for
2 you were on the public side of the barrier?

3 A Yes, sir.

4 Q Did any of them manage to reach you and
5 grab you?

6 A No, sir.

7 Q Were any of your family members other than
8 Joseph nearby when this occurred? Let me ask it
9 differently. Do you know if any of your family members
10 saw you fall?

11 A I know that my niece saw me fall.

12 Q That's Jessica or that's not Jessica?

13 A That's not Jessica. That's Sherry.

14 Q Sherry?

15 A Correct. She and her dad were getting off
16 of a ride and she could see Joe and I -- this is what
17 she informed me.

18 Q Sure.

19 A She was watching Joe and I get on to the
20 ride. She said she seen the entire accident, so that's
21 who I know. My husband -- there was a french fry

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1 stand. And this is what he was telling me because I
2 didn't know any of this that he had went to get a
3 french fry, but he didn't see any of the fall at all
4 because he was paying for fries, fries that he said he
5 didn't even get after the fact. He said he paid six
6 dollars for them and he didn't get his six dollar
7 french fries. Comical there.

8 Q Did he get any french fries or just not six
9 dollars worth?

10 A No.

11 Q So he didn't see it?

12 A No, sir.

13 Q You believe Sherry saw it based on what she
14 told you? Do you know if any other of your family
15 members or those in your group saw the fall?

16 A I'm not certain.

17 Q What about Carol, was she present?

18 A She was present. She had Jessica.

19 Q Was she on the same ride?

20 A No. She was a bystander, but she had
21 Jessica and Jessica is a handful, so she had my purse,

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1 Jess.

2 Q Do you know if she, Carol, saw the
3 accident?

4 A I'm not of certain.

5 Q Did anybody take any pictures or video of
6 the accident as far as you know?

7 A No, sir.

8 Q What happened after you found yourself on
9 the ground?

10 A I was dazed. It took my breath away.
11 I'm -- I was puzzled. I was like holy cow, what
12 happened here. The next thing I know the attendant to
13 the ride was over top of me because I was in
14 excruciating pain. And he kept saying to me calm down,
15 calm down, calm down. That was very hard to do. And I
16 guess he was moved away. I don't know. I'm on the
17 ground. And the barrier had been moved so that help
18 could get in to help me. And I believe there was a
19 paramedic asking me if I could get up. I could not.
20 And then --

21 Q Excuse me. When he was asking you that,

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1 were you still on the ground between the platform and
2 where the barrier was before it was moved?

3 A Yes, sir.

4 Q Did you ever find out what your foot was
5 caught in?

6 A No, sir. The boat.

7 Q But what specifically, the seat, on some
8 other mechanism, and the seat belt, anything like that?

9 A I'm not sure, no, sir.

10 Q Do you believe you fell backwards because
11 you were dizzy?

12 A No, sir.

13 Q Can you give me any explanation for why you
14 fell backwards other than what you've already told me?

15 A There is no explanation. I fell backwards
16 because I was caught in the boat and the platform I
17 believe was just too small and I think that maybe an
18 adult shouldn't be able to --

19 Q Did you fall backwards before your foot was
20 caught in the boat or after?

21 A Did I fall backwards before -- no. I fell

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<p>1 when my foot was caught in the boat.</p> <p>2 Q So first your foot is caught in the boat</p> <p>3 and then you fall backwards? Is that what you're</p> <p>4 telling me?</p> <p>5 A Let me --</p> <p>6 Q Take your time.</p> <p>7 A I fell backwards -- no. I fell backwards.</p> <p>8 My foot didn't get caught until I fell.</p> <p>9 Q So it was not your foot getting caught that</p> <p>10 caused you to fall backwards?</p> <p>11 A Yes, sir.</p> <p>12 Q Something else caused you to fall</p> <p>13 backwards?</p> <p>14 A Yes, sir.</p> <p>15 Q And you don't know what it is other than</p> <p>16 you're suggesting the platform was not wide enough?</p> <p>17 A Yes, sir.</p> <p>18 Q What did Joseph do after you seat belted</p> <p>19 him? Did he just sit in the seat until everything was</p> <p>20 all over?</p> <p>21 A Ask me that question again.</p>	<p>1 Q No. How long were you on the ground?</p> <p>2 A I was on the ground 10, 15 minutes.</p> <p>3 Q And during that 10 to 15 minutes, the</p> <p>4 attendant came to you, told you to calm down. Somebody</p> <p>5 removed the barrier. A paramedic came, asked you</p> <p>6 questions and then the paramedic put you on a gurney.</p> <p>7 Is that what happened?</p> <p>8 A Yes, sir.</p> <p>9 Q And what was -- what was hurting?</p> <p>10 A My foot was hurting bad -- badly. I knew</p> <p>11 something was wrong with my foot. My shoulder was</p> <p>12 hurting. Actually my right shoulder was hurting and my</p> <p>13 left breast and because I had -- I mean, I had -- it</p> <p>14 was -- it was a fall that I couldn't stop. There was</p> <p>15 nothing for me to grab onto. It was somebody -- I was</p> <p>16 falling with no way to stop the fall. It was -- it</p> <p>17 was -- it was sudden. I had nothing to grab onto to</p> <p>18 stop the fall.</p> <p>19 Q So your left foot hurt. Your left breast</p> <p>20 hurt. Your right shoulder hurt?</p> <p>21 A Yes, sir.</p>
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<p>1 Q What did Joseph do after you belted him in?</p> <p>2 Did he simply sit in his seat and remain there until</p> <p>3 somebody took him out after the accident?</p> <p>4 A I'm assuming -- I'm guessing -- I mean,</p> <p>5 when I put Joe in, Joe knew that I was getting into the</p> <p>6 back. That's all Joe had known. I literally</p> <p>7 disappeared from sight to him. And I'm sure that with</p> <p>8 all the chaos, someone scooped him up so he didn't see</p> <p>9 auntie laying on the ground.</p> <p>10 Q You're guessing about all of this? You</p> <p>11 don't know specifically whether he remained seated</p> <p>12 until somebody took him off or whether he jumped out</p> <p>13 himself?</p> <p>14 A I was on the ground. I don't know. I can</p> <p>15 only -- I don't know.</p> <p>16 Q Okay. That's fair enough.</p> <p>17 A I was --</p> <p>18 Q How long would you estimate you were on the</p> <p>19 ground?</p> <p>20 A Are you asking me how long I was on the</p> <p>21 ground before someone came to me or --</p>	<p>1 Q Anything else hurt?</p> <p>2 A Basically the back area because it was that</p> <p>3 sudden impact. It took my breath away.</p> <p>4 Q Did you get any medical treatment for</p> <p>5 anything other than your foot?</p> <p>6 A They -- I believe they took an X-ray of my</p> <p>7 back area and the foot. That was it.</p> <p>8 Q Was that at Frederick Memorial Hospital?</p> <p>9 A Yes.</p> <p>10 Q We have an incident report or an accident</p> <p>11 report from a law enforcement officer of some kind at</p> <p>12 the fair. Do you remember speaking to anyone other</p> <p>13 than the paramedics?</p> <p>14 A No, sir, I don't. I don't recollect, no.</p> <p>15 Q You were transported by ambulance, I</p> <p>16 assume, to the hospital?</p> <p>17 A Yes, sir. I heard the ambulance.</p> <p>18 Q Was the ambulance already there at the</p> <p>19 fair?</p> <p>20 A I don't know the answer to that question.</p> <p>21 Q It sounds, though, that the paramedics</p>

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1 attended to you pretty quickly?

2 **A Yes, sir.**

3 **Q How long were you at the hospital?**

4 **A Maybe five, maybe six hours.**

5 **Q They X-rayed you?**

6 **A Yes, sir.**

7 **Q What else did they do?**

8 **A The nurse came in, asked me what had**

9 **happened. I informed her I had fell from a kiddy ride**

10 **at the Frederick fair. She took my vitals. My shoe**

11 **was still on. They wanted to take the shoe off and**

12 **I -- when I was on the ground at the fair and I said no**

13 **because I knew what was going to happen. I knew that**

14 **once they took that shoe off that that foot was just**

15 **going to expand. It hurt that bad.**

16 **Q How did you know that? Just was that your**

17 **assumption?**

18 **A Yes. My assumption, yeah. When you**

19 **fall -- when you fall like that, any kind of drastic**

20 **fall and you have a shoe on, you take that shoe off**

21 **immediately, that swelling is going to come.**

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1 **Q What kind of shoes were you wearing?**

2 **A Tennis shoes.**

3 **Q Like sneakers, the low rise?**

4 **A Yes.**

5 **Q Did you have socks on under the --**

6 **A Yes, sir, I did.**

7 **Q Did you tell any medical provider or anyone**

8 **else at Frederick Memorial that you had slipped and**

9 **fallen?**

10 **A No, sir. I said I fell off a kiddy ride.**

11 **Q Did you tell any medical provider anywhere**

12 **at any time that you slipped and fell?**

13 **A No, sir, I did not.**

14 **Q Have you reviewed any of your medical**

15 **records related to this accident?**

16 **A My medical records?**

17 **Q Yes, ma'am.**

18 **A I've seen some, yes, sir.**

19 **Q Have you asked any of your providers to**

20 **amend or edit any of the records?**

21 **A No, sir.**

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1 **Q Do you recall what diagnosis they gave you**

2 **at Frederick Memorial?**

3 **A Yes, sir.**

4 **Q What was it?**

5 **A A Lisfranc.**

6 **Q L-I-S-F-R-A-N-C?**

7 **A Yes, sir.**

8 **Q What is that?**

9 **A Well, from what the physician informed me**

10 **because I was like, well, what is that, he said it came**

11 **from years ago. They named it that because when people**

12 **fell off of horses and their foot got hooked up in a**

13 **stirrup and they were drug and their foot went the**

14 **opposite way. I think it was a doctor or someone.**

15 **That's where the name came from.**

16 **Q You were not dragged in this accident, were**

17 **you?**

18 **A No, sir.**

19 **Q The apparatus never turned while you were**

20 **on it?**

21 **A No, sir.**

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1 **Q Is this the first time you had heard of a**

2 **Lisfranc fracture?**

3 **A Yes, sir.**

4 **Q After leaving the hospital, what did --**

5 **where did you go and what did you do?**

6 **A I went home and I went to bed.**

7 **Q Did they give you any medicine?**

8 **A Yes, sir.**

9 **Q Did they give you a brace or anything of**

10 **the sort at the hospital?**

11 **A They stabilized the foot, put like a cast**

12 **on it, a soft cast, gave me crutches, and they gave me**

13 **a Percocet for the drive home.**

14 **Q You were not able to drive yourself?**

15 **A No, sir.**

16 **Q When did you next receive medical**

17 **treatment?**

18 **A That Monday, I called Dr. Miller to get an**

19 **appointment that I had fell from the kiddy ride at the**

20 **Frederick fair and I was informed that I had a**

21 **Lisfranc.**

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1 Q Did you know Dr. Miller? Obviously somehow
 2 you knew Dr. Miller. How did you know Dr. Miller?
 3 A I know Dr. Miller because he was my
 4 physician when I broke my ankle.
 5 Q Which ankle was that?
 6 A My left ankle.
 7 Q What year was that?
 8 A 2008.
 9 Q He's an orthopaedist, I assume?
 10 A Yes, sir.
 11 Q And how did you break your ankle in 2008?
 12 A I slipped in the wet grass in the backyard
 13 of my home.
 14 Q Not on ice?
 15 A No.
 16 Q Just wet?
 17 A Yes, sir. It had rained and my mom was
 18 ill. And she had a cat named Daisy and I asked her
 19 where Daisy was. And she said she had let Daisy out
 20 because Daisy told her she had to go to the rest room.
 21 And I had seen Daisy after it rained and went to pick

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1 her up and slipped and I fell down.
 2 Q And you broke your left ankle did you say?
 3 A Yes, sir.
 4 Q Had you ever broken any other bones prior
 5 to that?
 6 A Prior to that?
 7 Q Yes, ma'am.
 8 A No, sir.
 9 Q How did you get to Dr. Miller then?
 10 A I didn't go then. An ambulance took me to
 11 St. Agnes Hospital and informed me that I had broken my
 12 ankle and that I needed to see an orthopaedic surgeon.
 13 So they stabilized it and I went to work that Monday.
 14 And I saw Dr. Heitmiller who was my boss at the time
 15 and I told him that I needed to see an orthopaedic
 16 surgeon soon because I need surgery because that's what
 17 St. Agnes Hospital physicians in the ER told me. And
 18 knowing that we have the best orthopaedic surgeons
 19 around, he is the physician that -- Dr. Heitmiller went
 20 down to the orthopaedic department and --
 21 Q So, in other words, Dr. Heitmiller referred

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1 you to Dr. Miller?
 2 A Yes. Dr. Heitmiller is, you know, he's the
 3 chief, and chief of surgery, and if something needed to
 4 happen to get surgery.
 5 Q He knows who to send you to?
 6 A Yes, sir.
 7 Q And did Dr. Miller do surgery on your left
 8 ankle?
 9 A Yes, sir.
 10 Q Do you know what it involved, what it was
 11 called or what he did specifically as opposed to
 12 generally?
 13 A I don't know. I just know he fixed my
 14 ankle.
 15 Q Did you have any difficulties recovering
 16 from that?
 17 A No, sir. And every time I would see him in
 18 the elevator after the fact, I would always, you know,
 19 thank him because I was back on my feet again. That's
 20 all I needed to be was back on my feet again.
 21 Q Did you have any difficulties unrelated

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1 specifically to your left ankle following that surgery?
 2 A No, sir.
 3 Q Did you have DVT, for example?
 4 A Yes. I did get a blood clot, yes.
 5 Q How long did they take to resolve?
 6 A This is a guesstimation.
 7 Q It's been a while. I understand.
 8 A I'm going to say a month, within that three
 9 weeks to a month.
 10 Q How long did your left ankle take to be --
 11 to feel almost as good as new?
 12 A I'm going to say a year. I mean,
 13 completely to be able to do everything normal, maybe a
 14 year. Again, that's a guesstimation.
 15 Q I understand. You had another fracture
 16 between that one and the one at issue in this case,
 17 correct?
 18 A I had tibia fibula of the right leg.
 19 Q How did that happen?
 20 A We got 12 inches of snow and my husband and
 21 I and my daughter cleaned the entire street. My street

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1 back then was all elderly people and I'm talking a lot
 2 of snow, 12 inches. We had a foot. And my husband has
 3 a snow blower, very nice one, and we cleaned the entire
 4 street, did every person's sidewalk and down to the
 5 road.
 6 And then the sun had came out later. I had
 7 put a turkey in the oven that day and said when we get
 8 done, we're going to have a good dinner. Like I made a
 9 Thanksgiving dinner. I put a turkey in the oven and we
 10 worked that day getting the snow up out of everyone's
 11 yard and the street itself in general, literally the
 12 street.
 13 And I went in. We were all done, went in,
 14 went to make the mash potatoes. And I asked my
 15 daughter if she would take Poppy out which is one of my
 16 dogs, a little Bichon Poo out to pee, and she said yes.
 17 She didn't move fast enough for me. So I went to take
 18 the dog out and when I went down the steps, down my
 19 driveway which is like a blacktop like the roads are, I
 20 slipped in the driveway and fell.
 21 Q So you broke your right tibia and fibula

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1 when you slipped on ice?
 2 A I can't believe I didn't fall on the dog
 3 because I would have killed her. That was my mother's
 4 dog.
 5 Q You understand that the tibia and fibula
 6 are the bones below your knee?
 7 A Yes.
 8 Q Did Dr. Miller also --
 9 A No, sir.
 10 Q -- care for you? Who cared for you?
 11 A That was Dr. Brumbach.
 12 Q Where is he located?
 13 A MedStar Union Memorial Hospital.
 14 Q Was he also a referral from your boss?
 15 A Yes, sir.
 16 Q Why did you see him, if you know, rather
 17 than Dr. Miller?
 18 A Because Dr. Miller is not tibia fibula.
 19 He's ankle.
 20 Q I see.
 21 A Different doctors, different specialties.

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1 And Dr. Heitmiller gave Dr. Brumbach his OR time.
 2 Q What is the specialty of a doctor who is
 3 overseeing your laser treatment for plantar fasciitis?
 4 A What is the what?
 5 Q What is his specialty, the doctor
 6 overseeing your laser treatment?
 7 A He was the chief of orthopaedics at MedStar
 8 Union Memorial when he was there.
 9 Q Is he no longer there?
 10 A No, sir. He went to Mercy, remember?
 11 Q Schon?
 12 A Uh-huh.
 13 Q So you're introduced to Dr. Miller. He
 14 examines you and tells you that you need surgery, I
 15 assume, to fix your left foot; is that correct?
 16 A Yes, sir.
 17 Q He's the one who conducted the surgery a
 18 few days after the accident?
 19 A Yes, sir.
 20 Q Did you have an understanding as to what
 21 was involved in the surgery?

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1 A Somewhat of an understanding that he was
 2 going to go in and I took it as tying and putting some
 3 kind of a button. He said that, you know, in the past,
 4 this procedure that he was doing versus going in and
 5 doing a different procedure he felt that this was going
 6 to be the best way to go.
 7 Q This was outpatient surgery, correct?
 8 A Yes, sir.
 9 Q Did you continue to follow-up with him
 10 after that surgery?
 11 A Yes, sir.
 12 Q How many times would you estimate you saw
 13 him in follow-up from that surgery?
 14 A Let me see. You get three post-ops and
 15 that's -- the first post-op is 10 to 15 days after your
 16 surgery. And then it goes to like two weeks and three
 17 weeks and four weeks up to six months to a year, things
 18 like that. That's how it normally goes.
 19 Q I'm just asking if you remember how many
 20 follow-up sessions you had with him.
 21 A I don't know. I know I went back when I

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1 was supposed to go as per the doctor directed me to.

2 Q Was it for approximately a year?

3 A Yes, sir.

4 Q Up until roughly September of 2017?

5 A Yes, sir.

6 Q Did Dr. Miller prescribe physical therapy

7 for you?

8 A He did suggest physical therapy, yes, sir,

9 he did.

10 Q He just suggested it? He didn't tell you

11 you need physical therapy?

12 A He said he would like for me to go to

13 physical therapy.

14 Q But you did not do so?

15 A I did not do so because my job is -- I did

16 my own therapy. I needed to be at work every single

17 day. He was okay with that.

18 Q What would have prevented you from

19 attending periodic physical therapy at the beginning or

20 the end of the workday?

21 A What would have prevented me?

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1 Q Sure. You basically said you didn't get

2 therapy because you were working.

3 A Correct.

4 Q Fine.

5 A Therapy doesn't start at 6:00 a.m. I don't

6 know what time they end. Dr. Miller was okay, gave me

7 some exercises to do for therapy and, you know, after I

8 was giving -- when I was in the boot and he wanted me

9 to try and do a lot more weight-bearing or some

10 exercises, it was basically -- it was too much.

11 Q I'm not sure I follow. Are you saying that

12 the therapy he gave you to do at home proved to be too

13 much for you to do?

14 A Yeah. I needed to cut back. I was just

15 doing too much.

16 Q Dr. Miller also told you that you were

17 wearing the wrong kind of footwear, didn't he?

18 A Yes, sir, and I got a brand new pair. I

19 did what my doctor told me to do. I can honestly say,

20 yes, I didn't go to the therapy. I go to work. I need

21 to be there for my boss. Some say I'm a workaholic.

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1 I -- I guess that's why I have all of these vacation

2 time.

3 Q What were your office hours or your work

4 hours in 2016/2017?

5 A 7:00 a.m. until 4:30, 5:00. Sometimes I'd

6 leave a little sooner.

7 Q Were you a salaried or wage?

8 A Hourly.

9 Q So you got overtime if you worked more than

10 40 hours a week?

11 A Yes.

12 Q Did you work overtime?

13 A No. That's not honored at MedStar Union

14 Memorial Hospital.

15 Q Well, I'm sure they discourage it as many

16 employers do.

17 A Yes, sir, they do. When I first started

18 working with Dr. Schon which was within the past seven

19 months, they allowed it.

20 Q Did you recover satisfactory from the

21 surgery that Dr. Miller did in September of 2016 in

Page 61

1 your estimation?

2 A For the Lisfranc?

3 Q Yes.

4 A No, I did not.

5 Q What happened if you can tell me?

6 A I just -- I can't -- what do you want me to

7 tell you?

8 Q I asked you whether you believe you

9 recovered satisfactorily from Dr. Miller's

10 September 2016 surgery. You said no.

11 A Yes, sir.

12 Q And I asked you tell me if you can what the

13 problem was.

14 A The problem is that I couldn't do steps. I

15 still had pain. I still have pain. My daily living

16 was not the same.

17 Q In what respects?

18 A In doing steps, in doing certain chores.

19 Again, this foot is still very painful.

20 Q Did you have steps in your house?

21 A Yes, sir. I have 15 that go up to my

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1 **It had to go through mine.**
 2 Q Have you ever filed suit as a result of any
 3 accident other than this case?
 4 A **No, sir, I don't believe.**
 5 Q Do you want a break or do you want to keep
 6 going? I don't have too much more.
 7 A **No. I'm good.**
 8 Q Do you currently use any kind of assistive
 9 devices to walk, crutch, wheelchair, rollator --
 10 A **No, sir.**
 11 Q -- anything like that?
 12 A **No, sir.**
 13 Q And when did you last wear a boot? I may
 14 have asked you. I don't recall your answer.
 15 A **When Dr. Miller did my last surgery, I**
 16 **believe I was in that for a good year.**
 17 Q So one of your Answers to Interrogatories
 18 says you contend that the platform was too narrow for
 19 an adult. In your own opinion, was there anything else
 20 wrong with the ride other than the narrowness of the
 21 platform?

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1 MS. BURNETT: Objection.
 2 You can answer. You can answer.
 3 THE WITNESS: What did you ask me? I'm
 4 sorry.
 5 BY MR. KARP:
 6 Q In your opinion, was there anything wrong
 7 with the ride other than the narrowness of the
 8 platform?
 9 A **When I think back, I didn't -- falling I**
 10 **couldn't grab to grab anything to stop my fall.**
 11 Q What do you think -- if you think, what do
 12 you think you should have been able to grab?
 13 MS. BURNETT: Objection.
 14 You can answer.
 15 THE WITNESS: Something on the ride. A
 16 rail, some sort of something to stop from falling. I
 17 didn't have that ability to stop myself.
 18 BY MR. KARP:
 19 Q Have you ever seen a rail or anything that
 20 you could have grabbed on any other kiddy ride?
 21 A **That's the first time I've ever been on a**

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1 **kiddy ride.**
 2 Q Was it the last time as well?
 3 A **Yes, sir. Never been on a boat that didn't**
 4 **have water under it that I fell and hurt myself.**
 5 Q Have you been on any amusement park rides
 6 since?
 7 A **No, sir.**
 8 Q Did you miss time from work as a result of
 9 this accident?
 10 A **Not much. I think like three days for**
 11 **surgeries. Again, I reflect back to I need to be there**
 12 **for my boss.**
 13 Q Sure.
 14 A **I'm -- I was able to go back to work as**
 15 **long as I kept my foot propped, elevated. I did what I**
 16 **was told. They let me go back to work. My husband**
 17 **took me back and forth to work. I had to get up extra**
 18 **early. I had to go up on my tail end up steps, 15**
 19 **steps. I had a shower chair. He helped me through all**
 20 **of this.**
 21 Q You didn't have to use any steps at work?

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1 A **That's correct, no steps.**
 2 Q So the steps you're talking about are at
 3 home?
 4 A **At home, yes, sir.**
 5 Q You still have difficulty with steps, I
 6 gather?
 7 A **Yes, sir, up and down.**
 8 Q Do you have any other complaints related to
 9 your left foot other than sensitivity?
 10 A **Sensitivity.**
 11 Q And difficulty with steps?
 12 A **When I'm on my foot too much, swelling.**
 13 **Elevation needs to be done. Sore, it's painful.**
 14 Q Do you have a scar on your foot?
 15 A **Several.**
 16 Q Do they trouble you?
 17 A **Yes, sir.**
 18 Q May I see them?
 19 A **Absolutely.**
 20 Q You stay there. I'll come around. While
 21 you're doing that, these are not the shoes you were